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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/598,680	06/21/2000	Jeffrey Allen Green	0933	7410

7590

02/12/2004

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12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, CA 90025-1030

EXAMINER
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SMITH, SHEILA B

ART UNIT	PAPER NUMBER
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2681

19

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/598,680

**Applicant(s)**

GREEN ET AL.

**Examiner**

Sheila B. Smith

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,7 and 11 is/are rejected.
- 7) ☒ Claim(s) 2-5 and 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>018</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation " possible " in line 3. By using the term "possible", this makes the claim indefinite

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,6,7,11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (U. S. Patent Number 6,523,233).

**Regarding claim 1**, Wang et al. discloses essentially all the claimed invention as set forth in the instant application, further Wang et al. discloses a method and apparatus for telephone network impairment detection and compensation in signal transmission between modems, additionally, Wang et al. as best understood by the examiner in view of the 112(2) rejection, Wang et al. further discloses a communications system including a first modem

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operatively connected to a second modem via a communications network comprising digital trunks with possible digital impairments of repetitive nature with a repetition frame consisting of one or more time slots and analog loops, the first modem performing a method of compensating for inter-modulation distortion (IMD) present in signals received from said second modem (which reads on column 3 lines 26-38), said method for compensating comprising the steps of: first, preprocessing to minimize effect of impairments other than IMD, so as to derive best estimates  $x'$  of the received- values that would correspond to a set of transmit values  $y$  (which reads on column 3 lines 39-46) second, deriving IMD based constant  $I$  from  $x'$  (which reads on column 3 lines 49-51) third, removing the IMD component from the received estimates to derive a IMD removed new estimate  $x''$  in accordance with the equation:  $x'' = x' - I(b y^3)$  (which reads on column 5 lines 50-55) where  $b$  is a system constant (which reads on column 5 lines 60-61). Wang et al. does not teach the specific equations for deriving estimates of received values and for deriving IMD based constant and the removed new estimate, and the system constant. However Wang et al. teaches computing total telephone network impairment as disclosed above, and modifying constants and/or variables of a known function to achieve an optimum relationship requires routine skill in the art.

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify the computing total telephone network impairment of Wang et al. to find an optimum relationship of the variables, requiring routine skill in the art, so as to provide an enhanced network impairment detection system.

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**Regarding claims 6,7**, Wang et al. discloses mu-law or A-law encoding is used, the preprocessed receive values  $x'$ , the IMD removed receive values  $x''$ , and the transmit values  $y$  are indexed using Ucode in ascending magnitudes (which reads on column 2 lines 1-2).

**Regarding 11**, Wang et al. discloses setting limits, in the first modem, on constellation levels which the second modem transmits to the first modem, the limits based upon the calculated IMD (which reads on column 2 lines 1-2).

***Allowable Subject Matter***

3. Claims 2-5, 8-10 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (703)305-0104. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 703-305-4040. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Smith  
February 9, 2004

  
ERIKA GARY  
PATENT EXAMINER